

Rule 8

FEDERAL RULES OF APPELLATE PROCEDURE

any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the district court without the necessity of an independent action. The motion and any notice that the district court prescribes may be served on the district clerk, who must promptly mail a copy to each surety whose address is known.

- (c) **Stay in a Criminal Case.** Rule 38 of the Federal Rules of Criminal Procedure governs a stay in a criminal case.

FEDERAL CIRCUIT RULE

Practice Notes

Form Requirements. See Federal Circuit Rule 32(f) for form requirements for motions and other documents. See also Federal Rule of Appellate Procedure 27 and Federal Circuit Rule 27 for other requirements concerning motions.

Certificate of Interest. The form for the certificate of interest is at Appendix of Federal Circuit Forms, Form 6.

Rule 9: Release in a Criminal Case

(a) Release Before Judgment of Conviction:

- (1) The district court must state in writing, or orally on the record, the reasons for an order regarding the release or detention of a defendant in a criminal case. A party appealing from the order must file with the court of appeals a copy of the district court's order and the court's statement of reasons as soon as practicable after filing the notice of appeal. An appellant who questions the factual basis for the district court's order must file a transcript of the release proceedings or an explanation of why a transcript was not obtained.
- (2) After reasonable notice to the appellee, the court of appeals must promptly determine the appeal on the basis of the papers, affidavits, and parts of the record that the parties present or the court requires. Unless the court so orders, briefs need not be filed.
- (3) The court of appeals or one of its judges may order the defendant's release pending the disposition of the appeal.

- (b) Release After Judgment of Conviction.** A party entitled to do so may obtain review of a district court order regarding release after a judgment of conviction by filing a notice of appeal from that order in the district court, or by filing a motion in the court of appeals if the party has already filed a notice of appeal from the judgment of conviction. Both the order and the review are subject to Rule 9(a). The papers filed by the party seeking review must include a copy of the judgment of conviction.

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- (c) **Criteria for Release.** ~~The court must make its decision regarding release in accordance with the applicable provisions of 18 U.S.C. §§ 3142, 3143, and 3145(c).~~

Rule 10. The Record on Appeal

- (a) **Composition of the Record on Appeal.** The following items constitute the record on appeal:

- (1) the original papers and exhibits filed in the district court;
- (2) the transcript of proceedings, if any; and
- (3) a certified copy of the docket entries prepared by the district clerk.

(b) The Transcript of Proceedings.

- (1) **Appellant's Duty to Order.** Within 10 days after filing the notice of appeal or entry of an order disposing of the last timely remaining motion of a type specified in Rule 4(a)(4)(A), whichever is later, the appellant must do either of the following:

- (A) order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary, subject to a local rule of the court of appeals and with the following qualifications:

- (i) the order must be in writing;
- (ii) ~~if the cost of the transcript is to be paid by the United States under the Criminal Justice Act, the order must so state; and~~
- (iii) the appellant must, within the same period, file a copy of the order with the district clerk; or

- (B) file a certificate stating that no transcript will be ordered.

- (2) **Unsupported Finding or Conclusion.** If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to that finding or conclusion.

- (3) **Partial Transcript.** Unless the entire transcript is ordered:

- (A) the appellant must — within the 10 days provided in Rule 10(b)(1) — file a statement of the issues that the appellant intends to present on the appeal and must serve on the appellee a copy of both the order or certificate and the statement;

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Rule 10. The Record on Appeal

Delay in preparing the transcript. When a trial transcript is not filed in the trial court within 60 days after it was ordered, the clerk may direct the parties to proceed under Rule 10(c) or (d) of the Federal Rules of Appellate Procedure.